

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEBRASKA

HOLLIE TELFORD,)	
)	
Plaintiff,)	7:13CV5001
)	
v.)	
)	
UNITED STATES OF AMERICA,)	MEMORANDUM AND ORDER
)	
Defendant.)	
_____)	

This matter is before the Court on its own motion. On June 20, 2013, the Court entered a Memorandum and Order allowing plaintiff to amend her complaint to clearly state a Federal Tort Claims Act ("FTCA") claim upon which relief may be granted against the United States of America (Filing No. [13](#)). Plaintiff filed an amended complaint on July 30, 2013 (Filing No. [14](#)). After reviewing the amended complaint, and in light of the liberal construction afforded to pro se litigants' pleadings, the Court finds that plaintiff has complied with its June 20, 2013, Memorandum and Order and that service on defendant is now warranted as to plaintiff's allegations of negligence by staff at the Federal Medical Center Carswell in Forth Worth, Texas. Although the Court finds that plaintiff's claims may proceed against defendant, the Court cautions plaintiff that this is only a preliminary determination based on the allegations of the complaint and amended complaint and is not a determination of the

merits of plaintiff's claims or potential defenses thereto. See [NECivR 15.1\(b\)](#) (stating court may consider amended pleadings as supplemental to, rather than as superseding, the original pleading in pro se cases).

IT IS ORDERED:

1. To obtain service of process on defendant, plaintiff must complete and return the summons forms that the clerk of the court will provide. The clerk of the court shall send three summons forms and three USM-285 forms to plaintiff, together with a copy of this Memorandum and Order. Plaintiff shall, as soon as possible, complete the forms and send the completed forms back to the clerk of the court. In the absence of the forms, service of process cannot occur.

2. Upon receipt of the completed forms, the clerk of the court will sign the summons forms, to be forwarded with a copy of the complaint and amended complaint to the U.S. Marshal for service of process. The Marshal shall serve the summons and the complaint and amended complaint without payment of costs or fees. Service may be by certified mail pursuant to Federal Rule of Civil Procedure 4 and Nebraska law in the discretion of the Marshal. The clerk of the court will copy the complaint and amended complaint, and plaintiff does not need to do so.

3. Federal Rule of Civil Procedure 4 requires service of the complaint on a defendant within 120 days of filing the complaint. However, because in this order plaintiff is informed for the first time of these requirements, plaintiff is granted an extension of time until 120 days from the date of this order to complete service of process.

4. Plaintiff is hereby notified that failure to obtain service of process on a defendant within 120 days of the date of this order may result in dismissal of this matter without further notice as to such defendant.

5. The clerk of court is directed to set a case management deadline in this case with the following text:
"January 30, 2014: Check for completion of service of summons."

6. The parties are bound by the Federal Rules of Civil Procedure and by the Local Rules of this Court. Plaintiff shall keep the Court informed of her current address at all times while this case is pending. Failure to do so may result in dismissal.

DATED this 4th day of October, 2013.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court

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